

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

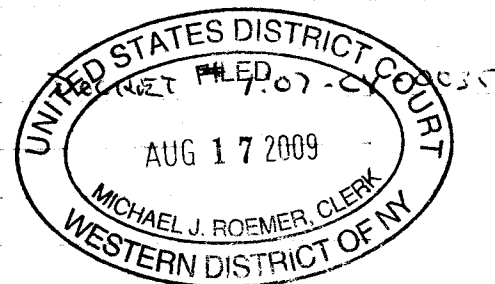
DONALD ANSON

PLAINTIFF

V.

UNITED STATES OF AMERICA

DEFENDANT



MOTION TO 'ORDER' DEFENDANTS TO PROVIDE
A CLEAR AND UNDERSTANDABLE 'ANSWER' TO
THE AMENDED COMPLAINT (DOC#21) IN COMPLIANCE
WITH RULE 12(b)(1) OF THE FED. R. OF CIV. PROC.

THE PLAINTIFF MOVES THE COURT TO ISSUE AN 'ORDER' OR
OTHER WISE COMPEL THE DEFENDANTS TO PROVIDE A CLEAR AND
UNDERSTANDABLE ANSWER TO THE PLAINTIFFS AMENDED COMPLAINT
FILED ON 9/6/2007 (DOC#21).

WHILE THE DEFENDANTS DID FILE AN 'ANSWER' (DOC#35) TO
THE COMPLAINT (DOC#21), THAT ANSWER WHEN COMPARED
TO EITHER THE AMENDED (DOC#21) OR THE ORIGINAL (DOC#1)
COMPLAINT, MAKES NO SENSE AT ALL.

THE PLAINTIFF ASKS THE COURT TO MAKE JUST SUCH
A COMPARISON AND SEE FOR ITSELF.

PLAINTIFF ASKS THE COURT TO ISSUE AN 'ORDER',
WITH A REASONABLE TIME LIMIT FOR COMPLIANCE
(SUGGESTING (15) FIFTEEN DAYS), TO FORCE THE DEFEND-
ANTS TO PROVIDE AN 'ANSWER' THAT COMPLIES WITH
THE RULES (FED. R. OF CIV. PROC.) AND WHICH CAN BE
UNDERSTOOD BY A PRO-SE PLAINTIFF, FOR THE REASONS
OFFERED IN THE ATTACHED 'MEMORANDUM IN SUPPORT
OF MOTION' AND TO APPLY WHATEVER SANCTIONS THE
COURT FEELS WOULD BE "FAIR" IN LIGHT OF THE
HISTORY OF THIS CASE.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DONALD ANSON
PLAINTIFF

V.

UNITED STATES OF AMERICA
DEFENDANT

1:07-CV-0035

MEMORANDUM IN SUPPORT OF MOTION
TO ORDER DEFENDANTS TO COMPLY WITH
FED. R. OF CIV. PROC. 12 (a) (3) (A)

THIS ACTION WAS FIRST FILED ON 1/24/2007 (SEE DOC #1).
THE UNITED STATES ATTORNEY WAS SERVED ON 4/27/2007,
AND THE ATTORNEY GENERAL WAS SERVED ON 5/8/2007. (SEE
PROCESS RECEIPT AND RETURN (S))

ON 9/6/2007, THE ORIGINAL COMPLAINT FOR THIS ACTION WAS
AMENDED BY THE PLAINTIFF (SEE DOC #21) AND AT THAT TIME NO
'ANSWER', NOR REQUEST FOR AN EXTENSION IN TIME TO FILE
THE ANSWER, HAD BEEN FILED BY THE DEFENDANTS.

ON 1/18/2009, THE PLAINTIFF SENT A MOTION TO THE COURT
ASKING FOR SANCTIONS AGAINST THE DEFENDANTS FOR UNFAIR
CONDUCT AND FOR VIOLATIONS OF THE FED. R. CIV. PROC. (UN-
RELATED TO THE STILL UNFILED ANSWER). THAT MOTION WAS,
THROUGH CREATIVE DOCKETING, DOCKETED AS (DOC #36).

THE DEFENDANTS JUST, COINCIDENTALLY, HAPPENED TO
FINALLY FILE THEIR FIRST 'ANSWER' ON 1/22/2009. THAT
WAS 728 DAYS AFTER THE ORIGINAL COMPLAINT WAS FILED,
AND ABOUT 480 DAYS AFTER THE AMENDED COMPLAINT WAS
FILED. THAT 'ANSWER', THOUGH THERE CAN BE LITTLE DOUBT
THAT IT WAS FILED IN RESPONSE TO THE COURT'S MISTAKEN
IMPRESSION THAT THE 1/18/2009, MOTION WAS A COMPLAINT
ABOUT A LACK OF AN ANSWER, WAS DOCKETED AS (DOC #35)
JUST TO PROTECT THE DEFENDANTS. (SEE LETTER TO A.U.S.A. AND
COURT DATED 1/22/2009)

HOWEVER, THIS MOTION IS NOT ABOUT THE OBVIOUS
INFERENCE OF COLLUSION BETWEEN THE COURT AND DEFENDANTS,
BUT ABOUT THE ACTUAL 'ANSWER' WHICH WAS FILED

BY THE DEFENDANTS.

FED. R. OF CIV. PROC. 12(a)(3)(A) CLEARLY STATES THAT THE 'ANSWER' IS TO BE FILED WITHIN 60 DAYS OF BEING SERVED IN AN ACTION.

NOT ONLY WAS THE DEFENDANTS 'ANSWER' NOT TIMELY, IT WAS IMPOSSIBLE TO UNDER-STAND.

PLAINTIFF COMPLAINED OF THIS, TO THE COURT, DURING THE PRE-TRIAL CONFERENCE CALL OF 1/27/2009 (SEE MINUTE ENTRY DOC#37).

DURING THAT CONFERENCE CALL THE COURT DIRECTED THE PLAINTIFF TO SEND A REQUEST FOR CLARIFICATION OF THE 'ANSWER' TO A.U.S.A. TAFFE BY 2/20/09 (SEE MINUTES DOC#37).

PLAINTIFF COMPLIED WITH THE COURT'S DIRECTIONS BY SENDING SUCH A REQUEST TO A.U.S.A. TAFFE (WITH A COPY SENT TO THE COURT WITH A CERTIFICATE OF MAILING). TO DATE, 8/2/09, THE DEFENDANTS HAVE NOT RESPONDED TO THAT REQUEST.

PLAINTIFF HAS REPEATEDLY TRIED TO FOLLOW UP ON THAT REQUEST FOR CLARIFICATION, AND REPEATEDLY ASKED THE COURT TO FORCE THE DEFENDANTS TO RESPOND (SEE MOTION DATED 3/2/09, + MOTION DOC#40, ALSO LETTERS DATED 3/6/09, 5/17/09, AND 6/11/09 SENT TO BOTH MR. TAFFE AND THE COURT WITH CERT OF MAILING). THE COURT HAS REFUSED TO ACT IN THIS MATTER, TO FORCE THE DEFENDANTS TO COMPLY WITH THE FED. R. OF CIV. PROC. 12(a)(3)(A).

THE PLAINTIFF NOW ASKS THAT THE COURT 'ORDER' THE DEFENDANTS TO PROVIDE A CLEAR AND UNDERSTANDABLE ANSWER TO THE AMENDED COMPLAINT (DOC#21),

FURTHER THE PLAINTIFF ASKS THAT THE COURT, SHOULD IT GRANT THIS MOTION, SET A REASONABLY EXPEDIENT DEADLINE FOR COMPLIANCE, WHICH IGNORES THE FACT THAT THE DEFENDANT IS THE UNITED STATES OF AMERICA, AND WHICH INSTEAD CONSIDERS THE TIME ALREADY ELAPSED IN THIS MATTER, AND THE ALREADY GROSSLY VIOLATED TIME LIMITS FOR AN 'ANSWER', UNDER THE FED. R. OF CIV. PROC., FOR A COMPLAINT FILED (2) TWO YEARS AGO.

BY 'ORDERING' THE DEFENDANTS TO PROVIDE A CLEAR AND UNDERSTANDABLE ANSWER IT WILL HELP THE PLAINTIFF

TO DETERMINE IN WHAT AREAS AN EXPERT WITNESS MAY, OR MAY NOT, BE NEEDED. SINCE THE PLAINTIFF IS INDIGENT AND WILL LIKELY BE FORCED TO PETITION THE COURT FOR FUNDING OF THE NEEDED EXPERTS IT WILL ALSO SAVE THE TAX-PAYERS MONEY. THE IS TRUE SHOULD THE PLAINTIFF PREVAIL, AS IT WOULD ULTIMATELY BE THE TAX-PAYER WHO WOULD HAVE TO PAY ANY AWARD FOR COURT COSTS.

THEREFORE, PLAINTIFF ASKS THE COURT TO GRANT THIS MOTION AND 'ORDER' THE PLAINTIFFS TO PROVIDE A CLEAR AND UNDERSTANDABLE 'ANSWER' TO THE AMENDED COMPLAINT OF 9/6/2007 (DOCT#21), AND TO EMPOSE A DEADLINE OF (15) FIFTEEN DAYS, WHICH WILL ALLOW PLAINTIFF TO COMPLY WITH THE COURTS 'CASE MANAGEMENT ORDER', FOR THE DEFENDANTS TO COMPLY.

PLAINTIFF, ALSO REPEATS HIS REQUEST FOR THE COURT TO IMPOSE SANCTIONS ON THE DEFENDANTS NOT ONLY FOR THEIR REFUSAL TO PROVIDE A TIMELY, UNDERSTANDABLE ANSWER, BUT FOR ALL THE VIOLATIONS OF THE COURTS DISCOVERY ORDERS, RULE VIOLATIONS, AND ITS CURRENT AND ONGOING ABUSE OF THE WRIT TO BRING ME TO ROCHESTER, N.Y. ON 4/14/09 AND WHICH I AM STILL 'IN TRANSIT' UNDER U.S. MARSHAL CUSTODY, AWAITING RETURN TO B.O.P. CUSTODY SOME 80 DAYS LATER.

Donald / *th*

DONALD ANSON 12332-055
N.E.O.C.C.
2240 HUBBARD ROAD
YOUNGSTOWN, OHIO 44505

CERTIFICATE OF SERVICE

I CERTIFY THAT ON AUG, 3, 2009, I MAILED A COPY OF THIS MOTION AND MEMORANDUM AND ALL ATTACHMENTS VIA FIRST CLASS MAIL, TO THE FOLLOWING PARTIES AT THE ADDRESS(S) LISTED BELOW:

A.U.S.A. TAFTE
U.S. FEDERAL COURTHOUSE
ROOM 620
100 STATE STREET
ROCHESTER, N.Y. 14614

CLERK OF THE COURT
U.S. FEDERAL COURT HOUSE
68 COURT STREET
BUFFALO, N.Y. 14202

PROOF OF SERVICE FOR INSTITUTIONALIZED OR INCARCERATED LITIGANTS

I CERTIFY THAT THIS DOCUMENT WAS GIVEN TO PRISON OFFICIALS, X PLACED IN PRISON MAIL BOX, ON THIS 3 DAY OF AUGUST, 2009, FOR FORWARDING TO THE U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK AND THE ABOVE NAMED PARTIES AT THE ADDRESS(S) LISTED ABOVE. I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. 28 U.S.C. §1746

DATED THIS DAY OF 2009

SIGNED